

CALIFORNIA DEPARTMENT OF INSURANCE  
LEGAL DIVISION  
Auto Compliance Bureau  
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Attorney for The California Department of Insurance

**BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF CALIFORNIA**

In the Matters of

NATION MOTOR CLUB, INC.,  
D.B.A. NATION SAFE DRIVERS,

FRANK MENNELLA,

MICHAEL MENNELLA,

ANDREW SMITH,

HOWARD GOLDFARB,

and

MICHAEL WIENER,

Respondents.

ORDER TO SHOW CAUSE (C.I.C. §  
12921.8(a)(3))

ORDER TO SHOW CAUSE FOR STOP  
ORDER (Ins. Code § 1065.1 & 1065.3)

STATEMENT OF ISSUES

File No's: DISP-2007-00860

DISP-2006-00274

DISP-2006-00276

DISP-2007-00097

DISP-2007-00098

DISP-2007-00099

ORDER TO SHOW CAUSE (C.I.C. § 12921.8(a)(3))

1. Respondent Nation Safe Motor Club, Inc., d.b.a. Nation Safe Drivers ("Nation Safe") is headquartered in Florida and conducts business in California. Respondent Frank Mennella has at all relevant times been the president and CEO of Nation Safe. Respondent Michael Mennella has at all relevant times been a sales and marketing manager of Nation Safe. Respondent Andrew Smith has at all relevant times been the CFO and Executive Vice President of Nation Safe.

1 Respondent Howard Goldfarb has at all relevant times been the Senior Vice President of Nation  
2 Safe. Respondent Michael Wiener has at all relevant times been the Senior Vice President of  
3 Marketing of Nation Safe.

4 Neither Nation Safe nor any of the aforementioned individuals currently holds a license  
5 from the Department.  
6

7 2. Nation Safe, under the direction and control of the individual respondents, has for several  
8 years issued and is currently issuing in California to California residents motor club service  
9 contracts, as defined in section 12144. These contracts promise one or more of the following  
10 benefits: mechanical first aid, tire service, battery service, delivery service, towing service,  
11 extrication/winching, locksmith service, and emergency road service. By selling or offering for  
12 sale these contracts, whether directly or indirectly, whether as principal or agent, Nation Safe has  
13 acted as a motor club, as defined in section 12142(a), without the certificate of authority required  
14 by section 12160(a). Such conduct constitutes a misdemeanor pursuant to section 12311. The  
15 acting as a motor club without a certificate of authority by Nation Safe under the direction and  
16 control of the individual respondents has, as described below, been in knowing and willful  
17 violation of the requirement for a certificate of authority. The conspiracy among the individual  
18 respondents to have Nation Safe violate section 12311 constitutes a crime punishable as a felony  
19 pursuant to California Penal Code section 182. The aiding and abetting of Nation Safe to violate  
20 section 12311 by the individual respondents constitutes felonies by them pursuant to California  
21 Penal Code section 33.  
22

23 3. Nation Safe, under the direction and control of the individual respondents, has for several  
24 years issued and may still be issuing in California to California residents automobile insurance  
25 policies, as defined in section 22 and 116. These contracts promise one or more of the following  
26 benefits: repair or replacement of, or reimbursement for damage to, automobile tires and/or  
27 wheels resulting from road hazards; reimbursement for meals, lodging and alternative  
28 transportation expenses resulting from road hazards or mechanical breakdowns; rewards for

1 information leading to the arrest and conviction of a person responsible for hit and run damage to  
2 a customer's vehicle. Each of these coverages constitutes insurance pursuant to the  
3 aforementioned sections, and requires a certificate of authority as an insurer pursuant to section  
4 700(a). The willful violation of section 700(a) by Nation Safe constitutes a felony pursuant to  
5 section 700(b). The conspiracy among the individual respondents to have Nation Safe willfully  
6 violate section 700(a) constitutes a crime punishable as a felony pursuant to California Penal  
7 Code section 182. The aiding and abetting of Nation Safe willfully to violate section 700(a) by  
8 the individual respondents constitutes felonies by them pursuant to California Penal Code section  
9 33.

10  
11 4. On December 2, 2003, the Department sent a certified letter to Nation Safe advising it of  
12 the California motor club statute and sections 22, 116, and 700. Thereafter, Nation Safe ignored  
13 the Department admonishment and continued to transact motor club business as described above,  
14 in willful violation of sections 12140 et seq., and to transact insurance, as described above, in  
15 willful violation of section 700(a).

16  
17 5. From at least January 1, 2006, to the present, a period of 768 days, Nation Safe transacted  
18 motor club business without a certificate of authority, as described above. Nation Safe was aided  
19 and abetted in this unlawful, unlicensed activity by each of the individual respondents. Nation  
20 Safe, and each individual respondent, is hereby ordered to show cause why the Commissioner  
21 lacks cause to impose upon each of them, not jointly and severally, a monetary penalty, pursuant  
22 to section 12921.8(a)(3), the amount of which shall be not less than five thousand dollars (\$5,000)  
23 for each day they sold the agreements, or \$3,840,000 for each respondent.

24  
25 6. From at least January 1, 2006, until no earlier than July 1, 2007, a period of 547 days,  
26 Nation Safe transacted insurance business without a certificate of authority, as described above.  
27 Nation Safe was aided and abetted in this unlawful, unlicensed activity by each of the individual  
28 respondents. Nation Safe, and each individual respondent, is hereby ordered to show cause why

1 the Commissioner lacks cause to impose upon each of them, not jointly and severally, a monetary  
2 penalty, pursuant to section 12921.8(a)(3), the amount of which shall be not less than five  
3 thousand dollars (\$5,000) for each day they sold the agreements, or \$2,735,000 for each  
4 respondent.

5  
6 ORDER TO SHOW CAUSE (1065.1 AND 1065.3)  
7

8 7. Paragraphs 1 – 6 are realleged and incorporated into this Order to Show Cause.  
9

10 8. Nation Safe and the individual respondents are persons subject to examination under the  
11 Code pursuant to sections 729 et seq., and are therefore subject to a conservation and liquidation  
12 proceeding pursuant to section 1010(a). By conducting an illegal motor club and insurance  
13 business as alleged above, Nation Safe and the individual respondents committed and engaged in  
14 an act, practice or transaction that would constitute grounds for rendering them subject to  
15 conservation proceedings, pursuant to section 1011(e).  
16

17 9. Nation Safe and the individual respondents are hereby ordered to show cause why the  
18 Commissioner should not issue an order commanding each of them to cease and desist from  
19 further involvement with any business or contract regulated by the Insurance Code until expressly  
20 permitted to resume participation by written order of the Commissioner. The cease and desist  
21 shall include, but not be limited to, a prohibition against:

22 a. Soliciting, negotiating, executing, delivering, effecting, arranging, or administering  
23 or otherwise transacting any contract regulated by the Insurance Code in exchange  
24 for compensation of any kind.

25 b. Having any contact with any other person for the purpose of soliciting,  
26 negotiating, executing, delivering, effecting, arranging, administering or otherwise  
27 transacting any contract regulated by the Insurance Code in exchange for  
28 compensation of any kind.

- 1 c. Participating in advertising that implies that respondent is licensed by the  
2 Department of Insurance or is engaged in the business of soliciting, negotiating,  
3 executing, delivering, effecting, arranging, administering or otherwise transacting  
4 any contract regulated by the Insurance Code.
- 5 d. Acting as an owner, partner, officer, director, shareholder with more than 10% of  
6 outstanding shares, or employee of, or having any interest in, any business that  
7 solicits, negotiates, executes, delivers, effects, arranges, administers or otherwise  
8 transacts any contract regulated by the Insurance Code.
- 9 e. Acting as an office manager, agent, broker, general agent, managing general agent,  
10 underwriter, consultant, solicitor, clerk, secretary, advisor, administrator or  
11 otherwise supervising, controlling, advising, administering or participating in the  
12 conduct of any business involved with a contract regulated by the Insurance Code.
- 13 f. Receiving any money, commission, fee, rebate, payment, remuneration, or any  
14 other valuable consideration whatsoever, in connection with any business involved  
15 with a contract regulated by the Insurance Code, or for work for, advice to, or  
16 consultation with any business involved with a contract regulated by the Insurance  
17 Code, except as an insured.
- 18 g. Handling, controlling, delivering, transporting, distributing, storing, maintaining,  
19 creating, completing, executing, or having access to any form regulated by the  
20 Insurance Code, except as an insured.
- 21 i. Collecting, receiving, requesting, maintaining, handling, distributing, refunding,  
22 returning, remitting, assigning, effecting, having access to, controlling, or  
23 otherwise having anything to do with any money that has anything to do with any  
24 business involved with a contract regulated by the Insurance Code, except as an  
25 insured.

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1 (l) The applicant has failed to perform a duty expressly enjoined upon him by a  
2 provision of the Code or committed an act expressly forbidden by such a  
3 provision;

4 (p) The applicant has violated a provision of law relating to conduct of business which  
5 could lawfully be done only under authority conferred by such license.

6 Section 1668.5 states that the Commissioner may deny an application if the applicant is an  
7 organization and a controlling person (as defined in section 1668.5(b)) of the organization:

8 (1) has conducted any business in a dishonest manner.

9 (2) has shown untrustworthiness in the conduct of any business,

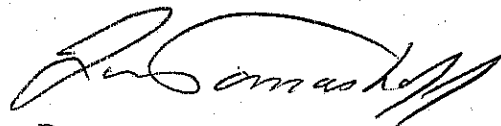
10 (3) has failed to perform a duty expressly enjoined upon him by the code or has  
11 committed an act expressly forbidden by the code.

12 (6) has aided or abetted a person in an act or omission that would constitute grounds  
13 for the suspension, revocation, or refusal of a license or certificate issued under the code  
14 to the person aided or abetted.

15 All of these subdivisions apply to Nation Safe as alleged in paragraphs 1 – 11.

16  
17 Date: 2/8/08

18 DEPARTMENT OF INSURANCE

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21 By  
22 Jon A. Tomashoff, CPCU  
23 Senior Staff Counsel  
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